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counsel. It is difficult to understand these allegations because we are not cited to any supporting references in the transcript. Moreover, what evidence ... the record is sparse, almost to the point of non-existence and the claims are ambiguously stated. As to the hearsay claim, if that is what it is, the Government contends that the appellant's deposition in a civil case in Maryland showed that appellant recalled so little about his alleged course of study in Mexico as to strongly indicate that he never attended all the courses at the university that his allegedly forged credentials set forth (Tr. 689 696). It appears that this is prior testimony by way of deposition, and if so it would be admissible as a recognized exception to the hearsay rule.

> Upon compliance with requirements which are designated to guarantee an adequate opportunity of cross-examination, evidence may be received in the pending case, in the form of a written transcript or an oral report, of a witness's previous testimony. This testimony may have been given by deposition or at a trial, either in a separate case or proceeding, or in a former hearing of the present pending ...

McCormick on Evidence § 254, at 614 (2d ed. 1972).

The context of this deposition, insofar as it was read into the record in this case, appears in the transcript at 689 696. Among other apparently startling deficiencies in memory, it indicates that Maturo could not translate the Spanish on his diploma while he admitted that the examinations in medical school were all in Spanish (Tr. 689 697. *See also* Tr. 710 711).

[3] Insofar as appellant may be claiming inadequate representation by his counsel it is our opinion that the allegation with respect thereto is insufficient to raise the issue for this court. However, inasmuch as the case is being remanded, the trial court should include all three claims in the hearing. So far as we can determine from the briefs and record, points (2) and (3) have not been raised or argued heretofore and what is involved in point (1), except for the possible claim of inadmissible hearsay, is not apparent to us. At the hearing appellant will have an opportunity to clarify the ... he relies upon.

Appellant also contends that the prosecutor misrepresented to the court in the bond hearing that Officer Vance had recanted his affidavit in connection with the alleged wiretapping (Tr. June 16, 1970, at 9 10). The status of this issue as a new or old one is not readily apparent, but the court may consider it with the wiretapping and the intimidation issues, to which it also relates. *See* Appellant's Brief at M-8.

Finally, as to Maturo's claim that he was discriminated against by the court not hearing his claim while it did hear Vecchiarello's, this remand for a joint hearing with Vecchiarello is a complete answer to this claim.

The case is remanded to the district court for disposition consistent with this opinion.

Order accordingly.

The FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D. C., Appellant,

v.

Heinrich Bauer VERLAG et al.

No. 71-1789.

United States Court of Appeals, District of Columbia Circuit.

Argued Oct. 22, 1975.

Decided June 1, 1976.

Religious organization brought libel action against, inter alia, distributor of West German magazine which contained allegedly libelous article. The District Court for the District of Columbia dismissed for want

of jurisdiction and religious organization appealed. The Court of Appeals, MacKinnon, Circuit Judge, held that distributor which had sales of $26,000 in ten-month period within the District of Columbia, representing one percent of the gross revenues of the distributor for that ten-month period, had sufficient contact with the District to permit assertion of long-arm jurisdiction over it; and that court erred in dismissing on grounds of forum non conveniens where both plaintiff and defendant were r[illegible] of the United States and where plaintiff sought damages for libelous publication in the District of Columbia, even though the article was written and published in West Germany and even though certain West German residents had initially been defendants in the action.

Reversed.

1. Courts ⇐12(2)

In order for court to properly assert personal jurisdiction over a nonresident defendant, service of process over the nonresident must be authorized by statute and be within the limits set by the due process clause of the constitution. U.S.C.A.Const. Amend. 14.

2. Courts ⇐444.3(2)

Connection with the District of Columbia sufficient to authorize assertion of personal jurisdiction over a nonresident defendant can be demonstrated under the District's long-arm statute only by proving that the defendant has one of three types of contact with the district and that the connection at least evinces the minimum contacts with the District sufficient to satisfy traditional notions of fair play and substantial justice. D.C.C.E. § 13-423(a)(4).

3. Statutes ⇐226

Because their similarly worded statutes also derive from the Uniform Interstate and International Procedure Act, decisions construing Maryland and Virginia long-arm statutes are entitled to substantial weight in considering long-arm statute of the District of Columbia. D.C.C.E. § 13-423(a)(4); Code Md.1957, art. 75, § 96(a)(4); Code Va. 1950, § 8-81.2(a)(4).

4. Courts ⇐444.3(2)

In order to show the reasonable connection necessary for assertion of long-arm jurisdiction over a defendant on the basis of its having derived substantial income for goods used or consumed in the jurisdiction, court must look both at the absolute amount of revenues and the percentage of total revenues represented by activities in the jurisdiction. D.C.C.E. § 13-423(a)(4).

5. Courts ⇐444.3(2)

Distributor which had its principal offices in city of New York, which received German-language magazines from West Germany and forwarded them by common carrier to another distributor in the District of Columbia, which had sales of $26,000 in the District in the first ten months of the year, with such sales representing approximately one percent of its gross revenues for the ten-month period, had, on the basis of income derived from the District, reasonable connection with the District so that District could assert long-arm jurisdiction over the distributor with respect to allegedly libelous magazine article. D.C.C.E. § 13-423(a)(4).

6. Courts ⇐444.3(2)

Distributor which engaged in the distribution of magazines outside the area of their immediate circulation and which did not engage in news-gathering activities in the District of Columbia could not assert protection of news-gathering exception to assertion of long-arm jurisdiction over it. D.C.C.E. § 13-423(a)(4).

7. Courts ⇐260.4

Statutory reference to "any District of Columbia court" in forum non conveniens statute does not include federal courts in the District of Columbia. D.C.C.E. § 13-425.

See publication Words and Phrases for other judicial constructions and definitions.

8. Courts ⇐260.4

Federal courts have the power to refuse jurisdiction over cases which should

have been brought i[illegible] rather than in the foreign jurisdiction considered more suit[illegible] rum in which to re[illegible] parties to be determ[illegible]

9. Courts ⇐260.4

Where both alle[illegible] and distributor of m[illegible] of the United States. [illegible] damages for libelous [illegible] trict of Columbia, a[illegible] action in the District [illegible] prompted by an inte[illegible] was error for trial co[illegible] tion on basis of forum [illegible] ly because the mag[illegible] been written and p[illegible] many.

10. Courts ⇐260.4

Trial judge has [illegible] ed, discretion to ap[illegible] non conveniens; wh[illegible] weighing of relative [illegible] forum but only a con[illegible] backs of one, that [illegible] abused.

Appeal from the [illegible] Court, for the Distri[illegible]

* Sitting by designation [illegible] § 292(d)

1. The Founding Ch[illegible] Washington, D. C., is [illegible] organized under the [illegible] Columbia, which enga[illegible] practice, and proselyt[illegible] in the District of Co[illegible] hereinafter be referre[illegible] the "Church of Scien[illegible] apparently affiliated [illegible] churches of Scientolo[illegible] both domestic and for[illegible] of this relationship [illegible] record

2. The article, which a[illegible] tion at App. 9-12, desc[illegible] two women in West [illegible] reports on the recruit[illegible] tims" of Scientology.

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have been brought in a foreign jurisdiction rather than in the United States but a foreign jurisdiction cannot necessarily be [illegible] fo-rum in which to require the rights of the parties to be determined.

9. Courts ⟹260.4

Where both allegedly defamed plaintiff and distributor of magazine were residents of the United States, where plaintiff sought damages for libelous publication in the District of Columbia, and where bringing of action in the District of Columbia was not prompted by an intent to vex or harass, it was error for trial court to decline jurisdiction on basis of forum non conveniens merely because the magazine in question had been written and published in West Germany.

10. Courts ⟹260.4

Trial judge has great, but not unlimited, discretion to apply doctrine of forum non conveniens; where there has been no weighing of relative advantages of each forum but only a consideration of the drawbacks of one, that discretion has been abused.

Appeal from the United States District Court, for the District of Columbia.

Samuel H. Seymour, Washington, D. C., for appellant. Earl C. Dudley, Jr., Arlington, Va., was on the brief for appellant.

[illegible] whom Edgar H. Brenner and Werner Kronstein, Washington, D. C., were on the brief for appellee German Language Publications, Inc.

Before McGOWAN and MacKINNON, Circuit Judges, and McMILLAN,* United States District Judge for the Western District [illegible]

Opinion for the court filed by Circuit Judge MacKINNON.

MacKINNON, Circuit Judge.

In this diversity action the Founding Church of Scientology of Washington, D. C.[1] sued (1) the author, editor, publisher, and distributor of an allegedly defamatory article which appeared in the July 1973 edition of the German-language magazine *Neue Revue*, and (2) an official of the West German federal criminal investigating authority who allegedly aided in the preparation of that publication.[2] The district court dismissed the suit on the grounds (1) that it lacked [illegible] defendants under the District of Columbia "long arm" statute[3] and (2) that suit in the District of Columbia was barred under the doctrine of *forum non conveniens*.[4] Appeal

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* Sitting by designation pursuant to 28 U.S.C. § 292(d).

1. The Founding Church of Scientology of Washington, D. C., is a nonprofit corporation, organized under the laws of the District of Columbia, which engages in the active exercise, practice, and proselytization of "Scientology" in the District of Columbia. App. 1. It will hereinafter be referred to as the "Church" or the "Church of Scientology." The Church is apparently affiliated in some way with other churches of Scientology in other jurisdictions, both domestic and foreign, but the exact nature of this relationship does not appear in the record.

2. The article, which appears in English translation at App. 9–12, describes the terrorization of two women by West German Scientologists, reports on the recruitment there of new "victims" of Scientology, and notes an investigation into the activities of Scientologists by the West German Federal Criminal Affairs Bureau.

Of a total of approximately 1,400,000 copies of the issue in question, 56 reached the District of Columbia where they were distributed to four news dealers who are not parties to this action; of the 56 copies, 30 were sold and the rest returned.

3. D.C.Code § 13-423 (1973).

4. Virtually identical suits in New York and California have been dismissed on these two grounds. *See Church of Scientology of California v. Herold*, No. C 66230 (Superior Court for the County of Los Angeles, March 12, 1974); 172 N.Y.L.J. No. 1 at 13 (July 1, 1974) [Appellee's Supp. Appendix at 8]. Other suits have been filed in West Germany (both Munich and Wiesbaden), Holland, and Canada. On October 21, 1975, the appellee filed with this court a copy of a November 1974 decision by the Wiesbaden court [illegible] that the article was not